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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,279	08/19/2005	Alan James Roddis	9623-6	8903
20792 7590 01/29/2009 MYERS BIGEL, SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627				
EXAMINER PATEL, VISHAL A				
ART UNIT 3676		PAPER NUMBER		
MAIL DATE 01/29/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/519,279

**Applicant(s)**

RODDIS, ALAN JAMES

**Examiner**

Vishal Patel

**Art Unit**

3676

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 19-20 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Same reason as not electing claim 13.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 19-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Unclear how many radially extending walls are claimed (e.g. in claim 16) in view of claim 1 and what parts having the at least one radially extending wall having a thickness as defined in claims 1. This also applies how many orifice and flange are claimed.

Claim 16, "a corresponding annular second component...flange", unclear how the orifice in the second component defines an axially extending circumferential flange. As seen in the figures and the specification unclear where the second part has an orifice that defines the flange.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-12 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz (US. 4,484,771). As best understood claims 16-20 are rejected.

Schultz discloses a mechanical seal (figure 3) having a gland plate (7). The gland plate has structure claimed by applicant in claims 1-4, 6-12 and 14-15.

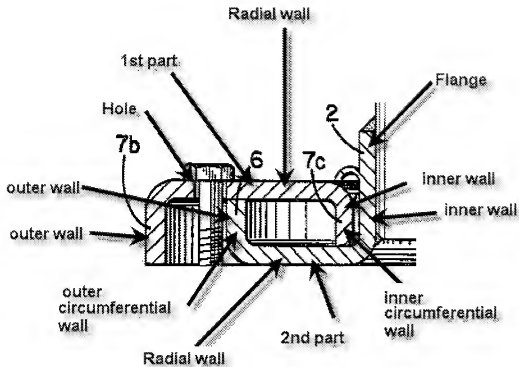
Schultz further discloses a gland plate having an annular first component having a radially extending wall with a thickness, an axially extending inner circumferential wall, an axially extending outer circumferential wall and at least one orifice, wherein the at least one orifice is formed in the radially extending wall of the first component and defined by an axially extending circumferential flange (see figure below that shows 1<sup>st</sup> part), a corresponding second component having a radially extending wall with a thickness, an axially extending inner circumferential wall, an axially extending outer circumferential wall and at least one orifice, wherein the at least one orifice is formed in the radially extending wall of the second component and defined by an axially extending circumferential flange (2<sup>nd</sup> part defined in figure below), wherein, when the respective inner circumferential walls and respective outer circumferential walls of the first and second components are brought into juxtaposition and held in engagement to form a hollow, annular structure, the respective orifices of the first and second components are aligned to form

at least one bolt hole and the respective circumferential flanges of the first and second components abut (intended use, the first and second part are capable of being juxtaposition).

Regarding limitations of claims 7 and 11: The limitations formed by pressing or punching operation is considered to be method limitations and given little patentable weight in an apparatus claims.

Regarding limitations of claim 17: The respective inner circumferential walls and respective outer circumferential walls of the first and second components are held in engagement by crimping, adhering, chemically bonding and/or welding the walls together (the limitations formed by crimping, adhering, chemically bonding and/or welding are considered to be method limitations and given little patentable weight in an apparatus claims). Furthermore the first and second components are held in contact by the nuts and bolts.

Schultz discloses the claimed invention except that at least one wall has thickness of from about 0.4 to 1mm. Discovering an optimum range of a result effective variable involves only routine skill in the art. In re Kulling, 895 F.2d 1147, 14 USPQ 2d 1056. Without the showing of some unexpected result. Since applicant has not shown some unexpected result the inclusion of this limitation is considered to be a matter of choice in design. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a thickness chosen from 0.4 to 1mm to provide cost savings and provide mechanical expedience of the invention.



5. Claims 1-12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirchkamp (DE 2838514 A1).

Kirchkamp discloses a mechanical seal (figure 2) having a gland plate (e.g. plate formed by 1, 2 and 9 attached to form a seal on 7). The gland plate has structure claimed by applicant in claims 1-4, 6-12 and 14-15.

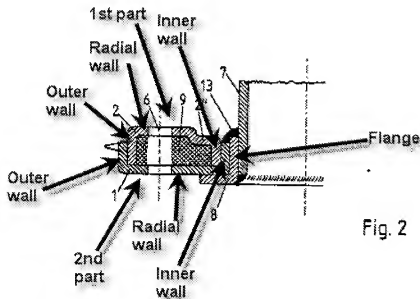


Fig. 2

Kirkkamp further discloses a gland plate having an annular first component having a radially extending wall with a thickness, an axially extending inner circumferential wall, an axially extending outer circumferential wall and at least one orifice, wherein the at least one orifice is formed in the radially extending wall of the first component and defined by an axially extending circumferential flange (see figure below that shows 1<sup>st</sup> component), a corresponding second component having a radially extending wall with a thickness, an axially extending inner circumferential wall, an axially extending outer circumferential wall and at least one orifice, wherein the at least one orifice is formed in the radially extending wall of the second component and defined by an axially extending circumferential flange (2<sup>nd</sup> component defined in figure below), wherein, when the respective inner circumferential walls and respective outer circumferential walls of the first and second components are brought into juxtaposition and held in engagement to form a hollow, annular structure, the respective orifices of the first and second components are aligned to form at least one bolt hole and the respective circumferential flanges

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of the first and second components abut (intended use, the first and second component are capable of being juxtaposition). The flanges are defined by the inner walls that form the orifices.

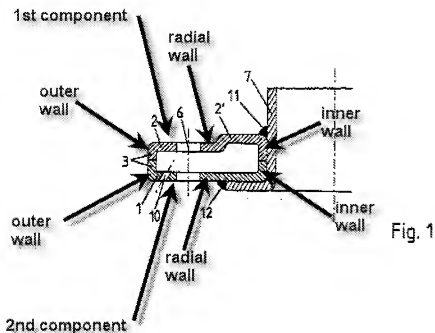


Fig. 1

Regarding limitations of claims 7 and 11: The limitations formed by pressing or punching operation is considered to be method limitations and given little patentable weight in an apparatus claims.

Regarding limitations of claim 17: The respective inner circumferential walls and respective outer circumferential walls of the first and second components are held in engagement by crimping, adhering, chemically bonding and/or welding the walls together (the limitations formed by crimping, adhering, chemically bonding and/or welding are considered to be method limitations and given little patentable weight in an apparatus claims). Furthermore the first and second components are held in contact as seen in figure 1.



Kirchkamp discloses the claimed invention except that at least one wall has thickness of from about 0.4 to 1mm. Discovering an optimum range of a result effective variable involves only routine skill in the art. In re Kulling, 895 F.2d 1147, 14 USPQ 2d 1056. Without the showing of some unexpected result. Since applicant has not shown some unexpected result the inclusion of this limitation is considered to be a matter of choice in design. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a thickness chosen from 0.4 to 1mm to provide cost savings and provide mechanical expedience of the invention.

#### ***Response to Arguments***

6. Applicant's arguments filed 10/2/08 have been fully considered but they are not persuasive.

Applicants' arguments to claim 1 is not persuasive in view of the rejection above because applicant has not claimed what is shown and argued in the drawings on page 8 of the response filed on 10/2/08.

Applicants' arguments to claims 16-18 are not persuasive in view of the rejections above (specifically the 112 and also the art rejection as best understanding of the invention).

Applicants' arguments to claim 16-18 is not persuasive because the claims is unclear in view of the limitations of claim 1.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer H. Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. P./  
Primary Examiner, Art Unit 3676

/Vishal Patel/  
Primary Examiner, Art Unit 3676